

LOL-HECO-IR-54

Ref: Expert Qualifications of HECO Witness Kerstan Wong, HECO-200

Question(s):

- a. In which subject matter fields does HECO plan to have the witness be qualified as an expert witness?
- b. In which subject matter fields does HECO plan to have the witness testify as a lay witness?
- c. For the witness, in their area of expertise, please provide answers to items (c)1-6, as listed below. Wherever possible, please provide the answer either in electronic format or by providing a web address where the document(s) can be down-loaded.
 1. All articles, books, chapters, or other documents written in whole or in part by the witness. Please provide the date of publication or release, the agency it was submitted to, the docket and/or file number that contains the document. Please provide electronic copies of all documents if they exist. Please provide the location of hard copies (source, cost, docket number, file number, or other identification).
 2. All courses taken, degrees given, courses/classes taught by the witness. Please provide electronic copies of all documents if they exist. Please provide the location of hard copies (source, cost, docket number, file number, or other identification).
 3. All presentations, testimonies, talks made and exhibits submitted by the witness to regulatory agencies. Please provide electronic copies of all documents if they exist. Please provide the location of hard copies (source, cost, docket number, file number, or other identification).
 4. All projects overseen by the witness. Please include the dates of participation and any identifying characteristics of the project necessary to track down information about it. Please provide electronic copies of all documents if they exist. Please provide the location of hard copies (source, cost, docket number, file number, or other identification).
 5. All correspondence between the witness and HECO with regard to their testimony. Please provide electronic copies of all documents if they exist. Please provide the location of hard copies (source, cost, docket number, file number, or other identification).
 6. All reports, draft or otherwise, submitted by the witness to the utility. Please provide electronic copies of all documents if they exist. Please provide the location of hard copies (source, cost, docket number, file number, or other identification).
- d. Who does [sic] the witness's boss at HECO?

HECO Response:

- a. In general, Mr. Wong will testify on HECO's behalf regarding the proposed project's scope of work description, schedule, and history. The PUC generally does not require that a witness be recognized as an "expert witness" in a particular area or subject. The Commission will give the appropriate consideration to a testimony based on its merit.
- b. See the response to subpart a.
- c.
 - 1. HECO objects to the request, as unduly burdensome, onerous and overly broad to the extent that it requests "[a]ll articles, books, chapters, or other documents written in whole or in part by the witness." The request for "[a]ll articles, books, chapters, or other documents written in whole or in part by the witness" could be construed to request documents written in whole or in part by the witness even if such documents were not related to the subject matter addressed by the witness or even if the document is not related in any way to the electric utility industry. Without waiving any objections, HECO provides the following response.

Mr. Wong was involved in the preparation of the September 2000 Revised Final Environmental Impact Statement, Kamoku-Pukele 138-kV Transmission Line Project (Exhibit 4 of this Application), provided testimony on HECO's Visual Mitigation Program before the Board of Land and Natural Resources March 21, 2001 Public Hearing on Conservation District Use Application No. OA-2801 (Kamoku-Pukele 138kV Transmission Line Project), and was a witness in the Contested Case for Conservation District Use Application No. OA-2801 (Kamoku-Pukele 138kV Transmission Line Project).

2. HECO objects to the request, as unduly burdensome, onerous and overly broad to the extent that it requests “[a]ll courses taken”. The request is unduly burdensome, onerous and overly broad, because the request for “[a]ll courses taken” could be construed to include “courses” going all the way back to college. It would be unduly burdensome and onerous, as well as counterproductive for the witness to have to identify the “courses” taken going back to college. Without waiving any objections, please see the following response.

Mr. Wong has taken electrical engineering courses in obtaining a Bachelor of Science degree in Electrical Engineering from the University of Hawaii at Manoa. In addition, Mr. Wong is a certified Project Management Professional with the Project Management Institute (www.pmi.org). Mr. Wong has developed and taught project management classes to private, non-profit organizations through the Project Management Institute, Honolulu Chapter, and has also developed and taught a project management class at HECO.

3. HECO objects to the request, as unduly burdensome, onerous and overly broad to the extent that it requests “[a]ll presentations, testimonies, talks made and exhibits submitted by the witness to regulatory agencies.” The request is unduly burdensome, onerous and overly broad, because it could be construed to encompass numerous materials. Without waiving any objections, please see the following response. Please see response to subpart c.1. above.
4. Mr. Wong has been the project manager for the following utility projects:
 - a. Installation of Airport #1 & #2 30/50 MVA Transformers (PUC Docket No. 6890), 1992-1993.

- b. Installation of Kunia Makai Substation #1 and #2 10/12.5 MVA Transformer (PUC Docket No. 7040), 1992 – 1998.
- c. Construction of H-3 Halawa Tunnel Service (PUC Docket No. 7077), 1992-1997.
- d. Construction of H-3 Koolau Tunnel Service (PUC Docket No 7078), 1992-1997.
- e. Installation of Archer #C 80 MVA Transformer (PUC Docket No. 7172), 1992-1994.
- f. Installation of Iwilei T3 & T4 30/40/50 MVA Transformers (PUC Docket No. 7535), 1992-1996.
- g. Kewalo 138-25kV Transformers A&B project (PUC Docket No. 7526), 1993 – 1998.
- h. Kewalo-Kamoku 138kV Transmission Line project (PUC Docket No. 7602), 1993 – 1998.

5-6. HECO objects to providing copies of “[a]ll correspondence between the witness and HECO with regard to their testimony” and “[a]ll reports, draft or otherwise, submitted by the witness to the utility”. The request for “[a]ll correspondence between the witness and HECO with regard to their testimony” includes various e-mails and attachments to the e-mails (i.e., internal written communications). HECO objects to providing these e-mails and attachments, as these documents are privileged and confidential and should not be provided on public policy grounds. In the internal written communications, the discussions are brief since HECO’s personnel understand the context of the subject matter and HECO believes that it is not cost effective to spend the time to generate elaborate discussion on the subject matter. If HECO is required to produce such internal correspondence, then the information would have to be generated in a fashion

suitable for external publication, rather than in its present form (which is suitable for internal discussions). This would be unduly burdensome and onerous, as well as counterproductive.

The internal correspondence are solely intended to be a tool to communicate information internally. The internal correspondence are an integral part of the decision making process in which thoughts are expressed, which may not be reflected in the written testimony. In addition, documents such as drafts of testimony, which are attached to e-mails, are a necessary step in the decision making process and can result in candid dialogue. Were these documents subject to review by others in a regulatory proceeding, their candid nature and, therefore, their value could diminish significantly in the future, and HECO's internal communications and decision-making process would be seriously hampered.

This information request basically requests unlimited access to internal correspondence related to the testimony. This information request fails to balance the need for the information against HECO's need to manage. For example, the Federal Freedom of Information Act ("FFIA"), codified at 5 U.S.C. §552, and the Uniform Information Practices Act (Modified), codified at H.R.S. Ch. 92F, contain broad disclosure requirements based on the public's interest in open government. However, even such broad disclosure acts provide exceptions from the broad disclosure requirements that are intended to permit the efficient and effective functioning of government. It is common in such acts to protect from disclosure pre-decisional agency memoranda and notes, and/or government records that, by their nature, must be confidential in order to avoid the frustration of a legitimate government function. This

is similar to the “deliberative process privilege” recognized by the Pennsylvania Public Utility Commission with respect to its own internal staff reports. See Pennsylvania Public Utility Commission v. West Penn Power Company, 73 PA PUC 122 (July 20, 1990), West Law Slip Op.

In addition, the request is overly broad or at least could be construed in that fashion, and HECO objects to the request on such grounds. The request is overly broad, because it applies to correspondence related to drafts of testimony being prepared for this proceeding, and questions or comments from HECO’s attorneys related to the testimony. HECO objects to providing correspondence related to drafts of testimony on the grounds stated above, regardless of whether such correspondence relates or reflects privileged communications with attorneys or attorney-work product. To the extent the request asks for communications that may contain the mental impressions, conclusions, opinions, or legal theories of HECO’s attorneys (e.g., some attachments to e-mails include the mental impressions and conclusions of HECO’s attorneys on drafts of testimony), HECO further objects to such request on the grounds that it asks for documents that are protected by the attorney-client privilege and the attorney work-product doctrine.

HECO objects to the request for “drafts” of “[a]ll reports . . . submitted by the witness to the utility” on the grounds stated above regarding drafts of testimony.

HECO also objects to disclosure of such requested correspondence and drafts of reports even under a protective order. The value of the correspondence (including the attachments) with a witness and drafts of the documents will be diminished if HECO is required to provide such documents, even if documents were provided pursuant to a

protective order.

Without waiving these objections, HECO provides the following response.

Mr. Wong prepared testimonies HECO T-2, HECO T-6, and HECO ST-2 and associated exhibits, including HECO-602, HECO-603, and HECO-ST-201, which have been submitted for this proceeding.

- d. At HECO, Mr. Wong reports to Mr. Ken Morikami, who is the Manager of the Engineering Department. (Mr. Morikami was recently promoted from his position as the Director, Project Management Division, Energy Delivery to his new position, and Mr. Wong was promoted to Mr. Morikami's old position as Director, Project Management Division.)